

The Complaint alleges that the Individual Defendants' acts and omissions resulted in damages in the form of "significant emotional suffering; damages to their reputation; and the embarrassment and humiliation of publicly being charged and prosecuted; [...] [and] lost wages and loss in the profitability of their business." Compl. ¶¶ 10.1, 10.3. As such, the records documenting such injuries are highly relevant.

Plaintiffs' Complaint demands an award of compensatory damages, yet fails to attribute a numerical value to the same. The Complaint does not specify what portion, if any, of said damages are attributable to emotional suffering, damage to reputation, embarrassment and humiliation, lost wages, or loss in the profitability of their business. Conceivably, damages in the form of loss in profitability of one's business would be readily identifiable, yet no such valuation is identifiable in Plaintiffs' Complaint.

Further, many aspects of Plaintiff's life are relevant in determining the value of Plaintiff's alleged injuries relative to Plaintiff's claim for future loss resultant of the alleged acts of Defendants. Defendants submit that these allegations are sufficient to allow access to Plaintiffs' medical, psychological, drug/alcohol treatment, employment, education, and other records.

Plaintiff's Medical, Psychological, Employment, Drug Testing/Treatment Records, and other similar records are highly relevant to the reasonableness of Defendants' actions. A person's apparent unstable mental state is a highly relevant factor that must be considered analyzing an Officer's probable cause determination. *See Mullenix v. Luna*, 136 S. Ct. 305, 311 (2015) ("the court ... concluded that the deputy had reason to believe [the plaintiff] was dangerous based on his unstable state of mind ..." (summarizing *Long v. Slaton*, 508 F.3d 576, 581-82 (11th Cir. 2007))); *Roell v. Hamilton Cnty., Ohio/Hamilton Cnty. Bd. Of Cnty. Comm'rs*, 870 F.3d 471, 482 (6th Cir. 2017) ("The totality of the circumstances includes 'the fact that at the time of the ...

struggle, the defendant officers had reason to believe [the plaintiff] was either on drugs or mentally unstable."') (holding that officers did not act unreasonably by restraining a delirious man who later died from asphyxiation.)

Defendants respectfully contends that it is appropriate and indeed imperative for the Individual Defendants, to have access to these records in advance of discovery depositions in order to fully and competently evaluate this claim and to efficiently represent Defendants. This request is for attorney W. Gerald Tidwell and Tidwell & Associates and attorneys Mark McGrady and Farrar & Bates to have access to the records requested in this motion.

APPROVED FOR ENTRY:

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